

Senate Bills 401 and 410 strengthen and clarify sections of the medical practice act. In Senate Bill 401 anesthesiology is introduced as a new subject with thirty-two hours in the course of instruction for a physician and surgeon certificate. In Senate Bill 410 the oral, practical or clinical phrase which was an indeterminate feature of examinations is eliminated.

Senate Bill 114, which is an act to provide for and regulate the examination and registration of nurses, will require definite amendments before it can be approved. We understand that the authors of the bill have had its defects pointed out to them and welcome amendments that will make the laudable purposes of the measure more certain. The medical profession and the public are devoted to the advancement of nursing in this state and nothing must be done that will hamper nursing in small or large hospitals. The law should embody definitely stated minimum standards, and the definition of "accredited schools" should be more clear and complete.

Is it advisable to create various classes of nurses? There are a number of other legislative measures that we will discuss in the next issue of the Journal. If any reader wishes fuller information on these or other bills affecting public health that are now pending before the Legislature, a letter addressed to The League for the Conservation of Public Health, Butler Building, San Francisco, will receive prompt attention.

#### **BOARD OF MEDICAL EXAMINERS ABOLISHED BY ASSEMBLY BILL 347**

On January 18th Governor William D. Stephens sent a special message to the Legislature setting forth, in general terms, an economy and efficiency program. It was stated that this program proceeded upon the fundamental lines recommended by the "Boynton Efficiency Committee" which, two years ago, after lengthy investigation, filed a comprehensive report upon the consolidation of many boards, commissions and other state agencies.

Eight bills were introduced to accomplish the administration's "economy and efficiency plan."

In the Governor's message what was referred to as "the seventh bill" to create a "Department of Professional Standards" was introduced as the first bill of the eight Efficiency Economy Bills in numerical order. We are not informed whether this was an accident, or whether it is considered of first importance, and should therefore be first considered.

It was introduced by Assemblyman J. R. White, Jr., of Los Angeles County, and is known as Assembly Bill 347. It abolishes the Board of Medical Examiners and merges it and all its essential functions with the Boards of Architecture, Accountancy, Dental Examiners, Embalmers, Library Examiners, Optometrists, Pharmacy and Veterinary Medicine.

A lay director shall have power, according to Assembly Bill 347, "to issue licenses for all of these professions, and to suspend or revoke licenses. He shall not be a practitioner of any of the professions under his jurisdiction, but shall select,

for each examination and for each hearing, a board of three persons each of whom shall be a person licensed to practice in this state the profession concerned."

In this bill we first observe a fundamental departure from the recommendations made by the Boynton Committee on Efficiency and Economy. In that report sent by the Governor to the Legislature March 12, 1919, it was set forth as a fundamental policy that only "those agencies which perform similar or allied functions" should be placed under one executive head. The Board of Medical Examiners and some others were "left to function independently" and it was the opinion of the committee as "seriously questionable" whether or not "increased efficiency" would be accomplished by consolidating a number of boards that had no apparent common function. It was pointed out that the item of economy could not be urged "for the reason that all of these boards are supported by fees collected from the professions regulated."

"One science only will one genius fit, so vast is art, so narrow human wit," the scheme proposed in Assembly Bill 347 would have one lay "genius" handle Architects and Embalmers, Dentists and Accountants, Librarians and Veterinarians, Optometrists and Pharmacists with the scientific medical profession thrown in for good measure. It is obvious that this fanciful grouping is not based upon any close relationship between these boards or any similar or allied functions which they are competent to perform.

On whose advice was the Governor led to adopt this impracticable plan, placing a number of uncoordinated professional boards without common policy under the control of an unprofessional chief?

Excellent advice is available, and had the Governor's advisors taken counsel with those best qualified to give it on the most economic and efficient method to maintain professional standards for the protection of the public health, they would realize that Assembly Bill 347 contains vital defects. The chief purpose of the Board of Medical Examiners is to test the qualifications of those who undertake to treat disease in any form and to protect the public from unskilled and incompetent practitioners, from imposition by charlatans and quacks who make extravagant claims of ability to cure the sick and are a constant menace to the health of their victims and the community at large. The public as a whole is entitled to know that anyone licensed by the state for a profession which requires the highest skill, learning and character shall have these qualifications determined by competent judges, and that the incompetent and unscrupulous shall be excluded from practice no matter how loudly they clamor. No law must be passed for political expediency that will lower standards, admit the uneducated to practice, and thereby jeopardize the public health.

One of the arguments advanced in favor of Assembly Bill 347 creates deep concern. It is stated by some of its advocates that the lay director of the proposed department of professional standards may, under the terms of the bill, appoint examiners from any of the many drugless cults of Cali-

fornia—chiropractors, osteopaths, naturopaths, et al.—to conduct the examinations of the individual cultist applicant. It is said by some advocates of the bill that this would satisfy and still the clamor of the cults. What is of more vital importance is that it would nullify the will of the people expressed at the polls upon this subject and would menace public health. We trust that those who are interested in Assembly Bill 347 will study the election returns wherein the people decisively defeated all the anti-health measures proposed by the cults.

There are no cross-cuts to scientific education and there can be no compromise with the incompetent.

We have only the primary object—the protection of the public—in mind and not the offices nor the officers of the board. Has the independent Board of Medical Examiners demonstrated its usefulness? Is there any reasonable charge of inefficiency or extravagance against it? If the present performers are efficient, economic and experienced, and they are dismissed, and an untried plan substituted for them, there must be some other object beside efficiency and economy prompting the action.

The Journal would like to take the testimony of the advocates of Assembly Bill 347, for we favor any practical plan that will produce greater efficiency and economy in promoting and protecting the public health.

#### DUE PROCESS OF LAW

##### WHAT THE CULVER DECISION MEANS

The Christian Science Monitor—the international daily newspaper of the Eddyite cult—heads the first column of its first page of January 1st, "Medical Freedom Law Upheld by California Court—Right of Exemption from Physical Examination in Schools is Sustained," etc. If it were not the custom of the international Eddyite propagandist to print deceptive articles on medical subjects we would reach the conclusion that "the Monitor" was starting the new year wrong; but the misleading character of the headlines just quoted shows that "the Monitor" is functioning normally and has made no reform resolutions for 1921.

Now what do the essential facts presented in the record of the Culver Case admitted by both parties disclose?

Under orders of the chief of police of Berkeley, a policeman attached a placard on the premises occupied as a residence by Laura Culver. Her niece, D. N., a pupil at the Berkeley High School, resided with her. In the latter part of August, 1920, there were six cases of diphtheria and one death from that disease among the students of the Berkeley High School. On September 8th the local health officer issued an order to the Berkeley superintendent of schools to the effect that cultures from the noses and throats of all pupils of the school would be taken on that day by the board

of health, and that those refusing cultures should be excluded from school until receiving written permission from the health officer to return. Eighteen of the pupils, including D. N., refused to permit the cultures to be taken. They were sent home and instructed by the school authorities not to return until they received permission from the health officer. After several days seven of these eighteen pupils, including D. N., returned and attended classes at the school, and continued, daily thereafter, to attend school without receiving any permission from the health officer. Cultures were taken from the throats and noses of 1300 pupils, and of those, 220 were designated as carriers. All but ten or twelve pupils of the school submitted to the examination. The local health officer communicated with the secretary of the state board of health, and in response to his request, on September 24th, he received from the said secretary a telegram reading as follows: "Quarantine following contacts with cases and carriers of diphtheria until they are determined not to be carriers of the infection." (Then followed the names of the seven pupils who had returned to school, including D. N.)

The placards placed upon the premises of six homes were not disturbed. The one on the Culver home was torn down. Another policeman placed a fresh placard upon the Culver premises which was immediately torn down.

The only act of Laura Culver in connection with the matter was the tearing down of the placard. "Whether this act," says Judge P. J. Langdon, the decision of the First Appellate District Court, Division Two, "which is admitted, was punishable as a crime or not is the *sole* question presented for determination." There is nothing in the decision upon "the right of exemption from physical examination in the schools." On the contrary, the decision clearly points out the broad powers vested in the board of health "to the end that epidemics may be avoided and the health of the people of the state preserved." The court declares "that every person who *after notice* shall violate or who *upon demand of any public health officer* shall refuse to conform to any rule, order or regulation prescribed by the *state board of health* respecting the quarantine of persons or places shall be guilty of a misdemeanor."

The Journal finds itself in hearty accord with this opinion. For a penal law or ordinance should be sufficiently definite for those affected by it to know their duty thereunder, and if not, it should not be sustained on the assumption that officers will exercise a wise discretion in enforcing it. "Before any citizen may be punished as a criminal it must be shown at least that a rule had been made by the board of health prior to the act sought to be punished as criminal, and such a rule must have been either so published as to give it the effect of a general rule of law, or knowledge of it must have been brought home to the person charged with its violation—"to warrant the punishment of Laura Culver for tearing down the placard it was incumbent upon the prosecution to show that a rule, order or regulation prescribed